



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/088,797	06/01/98	DALUISE	492F002

IM71/0216

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THOMAS, A

1772

02/16/99
DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-20 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 3-6, 8-13, 17, 18 is/are rejected.
- ☒ Claim(s) 2, 7, 14-16, 19, 20 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

—SEE OFFICE ACTION ON THE P—

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1. Claims 3 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no antecedent basis for the term "resilient particles".

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,6,8,11,13 and 17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tomarin('853). See Figure 1, column 3, lines 23-29 and column 5, lines 14-16.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-5,9,10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomarin('853). The reference discloses the invention substantially as claimed; see Figure 1, column 3, lines 23-29 and column 5, lines 14-16. However, the reference does not disclose the specifically claimed resilient material or interconnected perforated pipe. It would have been obvious to one of ordinary skill in the art to use any well known resilient material, such as high

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density rubber, as the resilient material in the article of the reference depending on the desired physical properties for a particular end use.

Using interconnected perforated pipe is well known as a means of drainage and therefore not considered a patentably significant feature.

6. Claims 1,3-6,8-13,17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alderson et al in view of Tomarin('853). The primary reference discloses the invention substantially as claimed; see Figures 2 and 3 and column 3, lines 32-56. However it does not disclose the use of resilient particles as carpet filling or the specifically claimed resilient material. The secondary reference discloses the use of resilient particles as carpet filling; see column 5, lines 14-16. It would have been obvious to one of ordinary skill in the art to use resilient particles as carpet filling in the carpet of the primary reference in view of the secondary reference depending on the game to be played on the carpet.

It would have been obvious to one of ordinary skill in the art to use any well known resilient material, such as high density rubber, as the resilient material in the article of the reference depending on the desired physical properties for a particular end use.

Concerning claim 10, the article of the primary reference is considered to inherently have holes in the backing in view of the disclosure of penetration by water through the mat; see column 10, lines 35-39.

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7. Claims 2,7,14-16,19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Thomas whose telephone number is (703) 308-2421.

**ALEXANDER THOMAS
PRIMARY EXAMINER
GROUP 1300**

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February 9, 1999